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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,193	07/18/2003	Hidetsugu Shimura	Q76031	2231
23373	7590	07/26/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			GRAINGER, QUANA MASHELL	
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/622,193

Applicant(s)

SHIMURA ET AL.

Examiner

Quana M. Grainger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-47 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 29,37-42,46 and 47 is/are allowed.
 6) ☒ Claim(s) 15,17,21-24,27,28,35,36 and 43 is/are rejected.
 7) ☒ Claim(s) 16,18-20,25,26,31-34,44 and 45 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 15-47 recite a “predetermined period” instead of “predetermined time” measured by a timer. Further, the claims recite a first-sixth time period and in some claims recited just a fourth or fifth time period. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 15,17, 21-24, 27-28, 35-36, and 43 are rejected under 35 U.S.C. 102(a) as being anticipated by Nakagawa et al. The image forming apparatus by Nakagawa et al. comprises an image carrier which is structured so as to be able to carry an electrostatic latent image on a surface of said image carrier; a toner carrier which rotates in a predetermined direction while carrying toner and accordingly transports said toner to an opposed position facing said image carrier; and image forming means which applies a predetermined developing bias upon said toner carrier, causes said toner carried by said toner carrier move to said image carrier, visualizes said electrostatic latent image with said toner, and accordingly forms a toner image, characterized in that it is possible to selectively execute an image forming operation, which requires to form a toner image corresponding to an image formation request upon receipt of said image formation request by a user, and optimization which requires to form a toner image as a patch image, to detect a density of said patch image and to optimize a density control factor

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influencing an image density based on the result of the detection to control an image density, and that in the event that there is not said image formation request newly received after an elapsed time since the end of formation of a toner image by said image forming means has reached a first predetermined period, said optimization is executed (column 5, line 18 –column 7, line 56). The image forming apparatus further comprising charging means which charges said surface of said image carrier to a predetermined surface potential prior to formation of said electrostatic latent image, characterized in that said elapsed time is calculated since termination of charge of said image carrier by said charging means.

Nakagawa et al. teaches an image forming method in which an electrostatic latent image is formed on a surface of an image carrier in response to an image formation request from a user and a predetermined developing bias is applied upon a toner carrier which rotates while carrying toner on a surface of said toner carrier, to thereby move said toner carried by said toner carrier to said image carrier, to visualize said electrostatic latent image with toner and to form a toner image, characterized in that in the event that there is not said image formation request newly received after an elapsed time since the end of formation of a toner image by said image forming means has reached a first predetermined period, optimization is executed which requires to form a toner image as a patch image, to detect a density of said patch image and to optimize a density control factor influencing an image density based on the result of the detection to control an image density.

Nakagawa et al. teaches an image forming apparatus comprising: an image carrier which is structured so as to be able to carry an electrostatic latent image on a surface of said image carrier; a toner carrier which rotates in a predetermined direction while carrying toner and

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accordingly transports said toner to an opposed position facing said image carrier; and image forming means which applies a predetermined developing bias upon said toner carrier, causes said toner carried by said toner carrier move to said image carrier, visualizes said electrostatic latent image with said toner, and accordingly forms a toner image, characterized in that in the event that there is not said image formation request newly received after an elapsed time-since the end of formation of a toner image has reached a fourth predetermined period, idling of said toner carrier is executed which requires to rotate said toner carrier at least one round or more (column 5, line 18 –column 7, line 56).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 22, 28, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa et al. Nakagawa et al. does not teach a toner image which is formed using a toner

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which contains a wax component which serves as a parting agent for prevention of fixing offset. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select the appropriate toner since it has been held to be within ordinary skill in the art to select a known material for its inherent properties. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Allowable Subject Matter

6. Claims 16, 18-20, 25-26, 31-34, 44-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 29, 37-42, 46-47 contain allowable subject matter.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quana Grainger whose telephone number is 571-272-2135. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on 571-272-2136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Quana Grainger
Primary Examiner
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QG